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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

MONGOLIA

1. The Committee considered the third periodic report of Mongolia (CCPR/C/64/Add.2) at its 1155th to 1157th meetings, held on 16 and 17 July 1992, and adopted* the following comments:

A. Introduction

2. The Committee expresses its satisfaction for the timely submission of the third periodic report of Mongolia, which followed the Committee's guidelines and which contained valuable information on the situation in Mongolia at the present time. The Committee appreciates, in particular, the high-level representation sent to discuss the report, which served as an indication of the importance attached by the Government of Mongolia to its obligations under the Covenant. Although its dialogue with the delegation was a useful one, the Committee regrets that insufficient information was provided, both in the report and in the answers supplied by the delegation, concerning key elements in the relevant legislation currently being considered in Parliament. Numerous draft laws and decrees were cited during the course of the consideration of the report but the lack of information as to their content impaired the Committee's ability to assess their potential impact.

*At the 1173rd meeting, held on 29 July 1992.

B. Positive aspects

3. The Committee notes with satisfaction the significant progress made, since the consideration of Mongolia's second periodic report, toward establishing and developing a legal order and democratic institutions which would promote the protection of human rights. The new Constitution has been drafted in the spirit of the Covenant and an extensive reform of the civil, criminal and penal codes is foreseen. Similarly, the Committee is encouraged by the indications of the delegation that many of the restrictive practices of the past are no longer in force. The Committee notes with particular satisfaction the recent accession of Mongolia to the Optional Protocol. Taken together, these notable developments indicate that the Government of Mongolia takes very seriously its obligations under the Covenant and is moving toward establishing a firmer legal basis for the realization of the rights contained therein.

C. Factors and difficulties impeding the application of the Covenant

4. The Committee notes that widespread economic dislocations of resources accompanying the transitions presently under way in the country have hindered the full application of the Covenant and the establishment of a new system of well-functioning democratic institutions and procedures. For example, the lack of adequately trained staff in the Mongolian legal service has adversely affected efforts to reform the judiciary.

D. Principal subjects of concern

5. The Committee expresses its concern over the unclear position of the Covenant in Mongolian law. Measures undertaken so far to give effect to the Covenant have not gone far enough in providing judicial guarantees for each right recognized in the Covenant or toward ensuring that the Covenant can be invoked by individuals in a court of law. Similarly, the Committee is concerned about the continuing applicability of old laws and procedures which have not yet been revoked or replaced by new legislation providing guarantees and, in particular, establishing recourse procedures. In regard to a number of fundamental rights recognized in the Covenant, some requirements and limitations presently in force in Mongolian law are so broad and numerous as severely to restrict the effective exercise of such rights in actual practice. This is true, for example, in regard to the criteria for declaring a state of emergency; the criteria for refusing an application for an exit visa or passport; the requirement of prior permission for the holding of public meetings and the criteria for refusing such meetings; and the requirement that political parties be registered and the criteria for refusing registration. Additionally, the absence of adequate mechanisms to appeal against administrative decisions creates an uncertainty as to whether such fundamental rights as freedom of association, freedom of assembly and freedom of movement are fully enjoyed in actual practice. The Committee also expresses its concern over the exercise and application of the death penalty in Mongolia. Grounds for invoking the death penalty are currently too broad to be in conformity with article 6 of the Covenant and the number of execution of capital punishments is alarmingly high.

E. Suggestions and recommendations

6. The Committee recommends that the State party should ensure that the provisions of the Covenant be fully incorporated into domestic law and able to be invoked in a court of law. The review presently in progress of current and

proposed legislation, policies and administrative procedures should be based on the Covenant and other international human rights instruments in order to ensure that forthcoming changes will accord with the obligations of the State party under these instruments. In regard to the declaration of a state of emergency, the State party should ensure that applicable legislation is in conformity with the Covenant, particularly in regard to paragraph 2 of article 4. The Committee also emphasizes that the texts of the Covenant and the Optional Protocol should be widely publicized in order that the general public, the judiciary and the relevant agencies of the Government are made aware of the rights enshrined in the provisions of these instruments. Adequate training in human rights norms should be provided for attorneys and members of the judiciary as well as for police, prison and other security officials. In undertaking the implementation of these recommendations, the Committee suggests that the State party further avail itself of the Advisory Services and Technical Assistance Programme of the Centre for Human Rights.